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C **3 DVD's Containing the 911 call, radio traffic, crime scene photographs, aerial photographs, autopsy of MA, Thong, Kien, photographs of the deputies and their weapons, photographs of Victim [redacted] photograph of the assault, Pre and Post video of the location, firearms report, and taped interviews.**

MISCELLANEOUS DOCUMENTS

Admonition forms



LOS ANGELES COUNTY DISTRICT ATTORNEY'S OFFICE
BUREAU OF FRAUD AND CORRUPTION PROSECUTIONS
JUSTICE SYSTEM INTEGRITY DIVISION

JACKIE LACEY • District Attorney
JOHN K. SPILLANE • Chief Deputy District Attorney
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August 9, 2016

Captain Steven Katz
Los Angeles County Sheriff's Department
Homicide Bureau
1 Cupania Circle
Monterey Park, California 91755

Re: Officer Involved Shooting of Thong Kien Ma
J.S.I.D. File #15-0231
L.A.S.D. File #015-05415-0560-011

Dear Captain Katz:

The Justice System Integrity Division of the Los Angeles County District Attorney's Office has completed its review of the May 5, 2015, fatal shooting of Thong Kien Ma by members of the Los Angeles County Sheriff's Department. Our detailed analysis of this incident is contained in the attached memorandum.

Very truly yours,

JACKIE LACEY
District Attorney

JAMES GARRISON
Head Deputy District Attorney
Justice System Integrity Division

c: Deputy Joseph Nunez, #[redacted]
Deputy Ofelia Silva, #[redacted]

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MEMORANDUM

TO: CAPTAIN STEVEN KATZ
Los Angeles County Sheriff's Department
Homicide Bureau
1 Cupania Circle
Monterey Park, California 91755

FROM: JUSTICE SYSTEM INTEGRITY DIVISION
Los Angeles County District Attorney's Office

SUBJECT: Officer Involved Shooting of Thong Kien Ma
J.S.I.D. File #15-0231
L.A.S.D. File #015-05415-0560-011

DATE: August 9, 2016

The Justice System Integrity Division of the Los Angeles County District Attorney's Office has completed its review of the May 5, 2015, fatal shooting of Thong Kien Ma by Los Angeles County Sheriff's Department (LASD) Deputies Joseph Nunez and Ofelia Silva. We have concluded that the above deputies acted lawfully in self-defense and in defense of others.

The District Attorney's Command Center was notified of the shooting at approximately 2:30 p.m., on May 5, 2015. The District Attorney Response Team responded to the location. They were given a briefing regarding the circumstances surrounding the shooting and a walk-through of the scene.

The following analysis is based on investigative reports, audio recordings of interviews, firearm analysis reports, forensic analysis reports, the autopsy report, crime scene diagrams and sketches, photographic evidence, and witness statements submitted to this office by LASD Detectives Robert Kenney and Joe Espino. The voluntary statements of all involved deputies were considered as part of this analysis.

FACTUAL ANALYSIS

On May 5, 2015, at approximately 12:40 p.m., LASD Deputies Joseph Nunez and Ofelia Silva responded to 10434 Enloe Street in the County of Los Angeles in response to a radio call of an assault with a deadly weapon. The informant had indicated to dispatch that the suspect was stabbing another male at the location.

Deputy Nunez was the first to arrive. As he turned east on Enloe Street from Central Avenue, he observed a female, later identified as [redacted] frantically trying to get his attention in front of the location.[1] As he got closer, he noticed her head and face were covered in blood. He also observed

[1] [redacted] will be referred to as "[redacted]" due to multiple witnesses bearing the same surname.

approximately 10 people standing on the street near the location. [redacted] began pointing south towards [redacted] Enloe Street.

Nunez parked his patrol vehicle just west of the location and exited with his service weapon drawn. As he approached the front of the location, he observed a male, later identified as Thong Kien Ma, on his knees in a flower bed in front of the house. Ma was moving his arm in a chopping motion towards something below him with a meat cleaver in his right hand. Nunez could not see what Ma was striking, as the vegetation in the flower bed blocked his view. Nunez reported via radio that the suspect had a meat cleaver and requested "less than lethal" weapons, specifically a stun-gun shotgun, be brought to his location.

As Nunez repositioned himself, he was able to see that there was a man, later identified as [redacted] on the ground in the flower bed.[2] Ma was striking [redacted] repeatedly with the meat cleaver. Nunez ordered Ma to stop and to drop the meat cleaver, but Ma did not comply. As he issued multiple commands to drop the cleaver and stop, Nunez slid open the driveway gate, entered the property and advanced towards Ma. Nunez then took cover behind a vehicle parked in the driveway as Ma stood up, turned towards Nunez and raised the meat cleaver in his right hand. Ma began charging towards Nunez, yelling something to the effect of, "Kill me!" or, "You're going to have to kill me!"

Nunez, in fear for his life, fired two to three rounds from his service weapon from a distance of 15 to 20 feet away. It appeared Ma was struck by gunfire, because he stopped and got down on one knee, still holding the meat cleaver in his right hand.

Nunez reported via radio that he had been involved in a shooting, that the suspect still possessed the meat cleaver and there was an injured victim on the ground. At this point, Nunez heard another patrol vehicle arrive, and saw that it was Deputy Ofelia Silva. Silva joined him, standing slightly behind him to his right.

Ma stood up again with the meat cleaver in his right hand. He raised his arm and charged at the deputies. Fearing for their lives, and each other's lives, Nunez fired another two to three rounds from his service weapon and Silva fired one or two rounds from her service weapon. Nunez and Silva did not know if their bullets struck Ma, but he went down to one knee again. Ma then began moving his right arm back and forth as if he was going to throw the meat cleaver at the deputies. Both Nunez and Silva ordered him repeatedly to drop the cleaver and get on the ground. Ma ignored their commands and started to get up, stumbling towards the deputies with the cleaver in his hand. Nunez and Silva each fired their service weapons two or three times in fear for themselves and each other. Ma fell onto his side and then rolled over on his back and stopped moving.

Unsure whether or not Ma was still capable of another attack, Nunez and Silva maintained their positions and held him at gunpoint until additional units arrived. Additional deputies arrived at the location and handcuffed Ma. Paramedics arrived at the location and pronounced both [redacted] and Ma deceased.

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[2] [redacted] will be referred to as "[redacted] for the remainder of this memorandum due to multiple witnesses bearing the same surname.

[redacted] was transported to Greater El Monte Hospital, where she was treated for lacerations to her face, shoulder and back. [redacted] told investigators [redacted] had gone outside at approximately 10:00 a.m. Approximately half an hour later, [redacted] heard a commotion outside. Hearing yelling and screaming, she went outside. She observed her husband, [redacted] being chased and stabbed by Ma on the driveway in front of her house. She then saw Ma grab her [redacted] and stab him with a knife and saw [redacted] bleeding from his head. At one point, Ma left [redacted] and ran toward her. Ma slashed her with the knife on her forehead. [redacted] ran away and asked neighbors to call 9-1-1. Ma was still stabbing her [redacted] Later she observed Ma chopping at [redacted] head.

[redacted] saw a patrol car approaching and directed the male deputy to Ma and [redacted] She heard the deputy yelling at Ma. She later observed a second deputy arrive and heard two deputies ordering Ma to drop the knife. She saw that Ma continued to hold the knife and then heard gunshots.

A canvass of the neighborhood was done and multiple witnesses reported having seen Ma attack [redacted] with the cleaver. Neighbors also heard and observed Nunez and Silva ordering Ma to stop what he was doing, drop to the ground and drop his weapon. Multiple witnesses also confirmed that Ma did not comply with the deputies' commands, and was advancing on the deputies when they discharged their service weapons. Witnesses also reported seeing Ma get up repeatedly and continue to advance on the deputies, and many overheard him yelling at the deputies to kill him. Witnesses indicated they believed Ma was going to attack the deputies immediately before they fired their weapons, and observed that Ma still had the cleaver in his hand when he finally fell to the ground and stopped moving.

Ma's family members were interviewed and indicated that Ma had previously had a problem with narcotics, specifically methamphetamine. The family had moved Ma to Vietnam to stay with other family members and get him away from the people he did narcotics with. Ma had returned to their home approximately four weeks earlier, and seemed to be doing well. On Thursday, April 30, 2015, Ma left home and did not return until Sunday, May 3, 2015. Family members were unable to reach him. After that date, Ma began acting paranoid. Ma began obsessing about his parents' credit card information and internet services being stolen. Family members tried to reason with him, but Ma became convinced that somehow [redacted] had run a wire to their house and stolen their internet and identities. Family members were concerned he may have started abusing narcotics again, as there was no indication any such theft had occurred, and Ma's behavior became increasingly bizarre.

An autopsy was conducted on [redacted] body by Deputy Medical Examiner Vadims Poukens on May 8, 2015. Dr. Poukens attributed the cause of death to 70 to 80 lacerations caused by a sharp instrument.

An autopsy was conducted on Ma's body by Deputy Medical Examiner Louis Pena on May 8, 2015. Dr. Pena determined that Ma sustained a total of 13 entry gunshot wounds, and three exit wounds. Three of these gunshot wounds were determined to be fatal. A toxicology screen done as part of the autopsy revealed amphetamine, methamphetamine and marijuana in Ma's blood at the time of his death.

LEGAL ANALYSIS

California law permits the use of deadly force in self-defense or in the defense of others if it reasonably appears to the person claiming the right of self-defense or the defense of others that he actually and reasonably believed that he or others were in imminent danger of great bodily injury or death. Penal Code § 197; *People v. Randle* (2005) 35 Cal.4th 987, 994 (overruled on another ground in *People v. Chun* (2009) 45 Cal.4th 1172, 1201); *People v. Humphrey* (1996) 13 Cal.4th 1073, 1082; *see also,* CALCRIM No. 505.

In protecting himself or another, a person may use all the force which he believes reasonably necessary and which would appear to a reasonable person, in the same or similar circumstances, to be necessary to prevent the injury which appears to be imminent. CALCRIM No. 3470. If the person's beliefs were reasonable, the danger does not need to have actually existed. *Id.*

"Where the peril is swift and imminent and the necessity for action immediate, the law does not weigh in too nice scales the conduct of the assailed and say he shall not be justified in killing because he might have resorted to other means to secure his safety." *People v. Collins* (1961) 189 Cal.App.2d 575, 589. "The 'reasonableness' of a particular use of force must be judged from the perspective of a reasonable officer on the scene, rather than the 20/20 vision of hindsight....The calculus of reasonableness must embody allowance for the fact that police officers are often forced to make split-second judgments – in circumstances that are tense, uncertain, and rapidly evolving – about the amount of force that is necessary in a particular situation." *Graham v. Connor* (1989) 490 U.S. 386, 396-397.

The evidence examined in this investigation shows that Ma was in the process of attacking Chu with a meat cleaver when first approached by Nunez. Nunez attempted to stop the attack by ordering Ma to stop and drop his weapon, but Ma was undeterred. Ma then began charging towards Nunez, forcing him to use deadly force to defend himself. Even after Nunez fired his service weapon, Ma continued his approach, holding the cleaver in a menacing manner. Both Nunez and Silva fired their weapons in an effort to protect themselves and each other. Ma then attempted to rise again, motioning as if he was going to throw the cleaver. Unable to get Ma to relinquish his weapon, Nunez and Silva were forced to discharge their weapons again to eliminate the threat posed by Ma. Both the deputies' recounting of the events and the statements of percipient witnesses in the area very clearly establish that Ma's actions created an environment where the deputies were justified in using deadly force to protect themselves, each other, and potentially Chu as well as other individuals in the area who could have become Ma's target.

CONCLUSION

We find that Deputies Nunez and Silva acted lawfully in self-defense and in defense of others when they used deadly force against Thong Kien Ma. We are closing our file and will take no further action in this matter.